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EXTRAORDINARY

भाग II—खण्ड 3—उपखण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 2nd September 1965

G.S.R. 1298.—In exercise of the powers conferred by section 2 of the Union Territories (Laws) Act, 1950 (30 of 1950) and in continuation of the notification of the Government of India in the Ministry of Home Affairs, No. S.R.O. 1223, dated the 12th April, 1957, the Central Government hereby further extends to the Union territory of Delhi, clauses (3), (6) and (11) of section 2, clause (db) of sub-section (1) of section 33, and sections 55, 56, 57, 58, 59, 60, 61, 62, 63, 63AA, 71, 72, 79, 80, 110, 111, 112, 113, 117, 141, 142, 143, 151, 155, 156, 157, 157A, 158, 159, 160, and 163, of the Bombay Police Act, 1951 (Bombay Act XXII of 1951), as in force in the State of Maharashtra, subject to the following modifications, namely :—

Modifications

1. Unless, the context otherwise requires, for the words "State Government", wherever they occur, the words "Chief Commissioner" shall be substituted and

there shall also be made in any sentence in which the words "State Government" occur, such consequential amendments as the rules of grammar may require.

2. In section 2,—

(a) after clause (1), the following clause shall be inserted, namely :—

'(1A) "Chief Commissioner" means the Chief Commissioner of the Union territory of Delhi;';

(b) for clause (3), the following clause shall be substituted, namely : -

'(3) "competent authority" means the District Magistrate, Additional District Magistrate, Sub-Divisional Magistrate or the District Superintendent specially empowered in that behalf by the Chief Commissioner;';

(c) for clause (6), the following clause shall be substituted, namely :—

'(6) "District Superintendent" means a District Superintendent of Police appointed for the Union territory of Delhi;';

(d) for clause (11), the following clause shall be substituted, namely :—

'(11) "police officer" means any member of the Police Force appointed or deemed to be appointed for the Union territory of Delhi;'.

3. In section 55 of the Act,—

(i) for the words "whenever it shall appear in Greater Bombay and in other areas in which a Commissioner is appointed under section 7 to the Commissioner and in a district to the District Magistrate," the words "whenever it shall appear to the District Magistrate," shall be substituted;

(ii) for the words "within the local limits of his jurisdiction or such area and any district or districts, or any part thereof, contiguous thereto, within such time as such officer shall prescribe, and not to enter the area or the area and such contiguous districts or part thereof, as the case may be," the words "within the local limits of his jurisdiction within such time as such officer shall prescribe, and not to enter the area" shall be substituted.

4. In section 56 of the Act,—

(i) for the words "whenever it shall appear in Greater Bombay and other areas for which the Commissioner has been appointed under section 7 to the Commissioner, and in other area or areas to which the State Government may, by notification in the Official Gazette, extend the provisions of this section, to the District Magistrate" the words "Whenever it shall appear to the District Magistrate" shall be substituted :

(ii) for the words "within the local limits of his jurisdiction or such area and any district or districts, or any part thereof, contiguous thereto, by such route and within such time as the said officer may prescribe, and not to enter or return to the said area or the area and such contiguous districts, or part thereof, as the case may be", the words "within the local limits of his jurisdiction by such route and within such time as the said officer may prescribe and not to enter or return to the said area" shall be substituted.

5. In section 57 of the Act,—

(i) for clauses (b) and (c), the following clauses shall be substituted, namely :—

'(b) twice of an offence under section 6 or section 11 of the Bombay Prevention of Begging Act, 1959 (Bombay Act X of 1960) as extended to Delhi, or under the Suppression of Immoral Traffic in Women and Girls Act, 1956 (Central Act 104 of 1956), or

(c) thrice of an offence within a period of three years under the Delhi Public Gambling Act, 1955 (Delhi Act IX of 1955) or under the

Punjab Excise Act, 1914 (Punjab Act I of 1914) as extended to Delhi,";

(ii) for the words "the Commissioner, the District Magistrate", the words "the District Magistrate" shall be substituted;

(iii) for the words "within the local limits of his jurisdiction or such area and any district or districts, or any part thereof, contiguous thereto, by such route and within such time as the said officer may prescribe, and not to enter or return to the area or the area and such contiguous districts or parts thereof, as the case may be.", the words "within the local limits of his jurisdiction by such route and within such time as the said officer may prescribe and not to enter or return to the area" shall be substituted.

6. In section 58 of the Act, for the words "enter any particular area or such area and any district or districts, or any part thereof, contiguous thereto, as the case may be,", the words "enter any particular area" shall be substituted.

7. In section 62 of the Act, in sub-section (2),

(i) for the words "enter or return to the area, including any contiguous districts or part thereof,", the words "enter or return to the area" shall be substituted;

(ii) for the words "or having so removed himself enters or returns to the area or the area and any contiguous district or part thereof, without fresh permission", the words "or having so removed himself enters or returns to the area without fresh permission" shall be substituted.

8. In section 63 of the Act, the words "or such area and any contiguous districts, or part thereof, as the case may be,", wherever they occur, shall be omitted.

9. For sub-section (1) of section 63AA of the Act, the following shall be substituted, namely :—

"(1) the Chief Commissioner or any officer specially empowered by the Chief Commissioner in that behalf may, in like circumstances and in like manner, exercise the powers exercisable by the District Magistrate, Sub-Divisional Magistrate or District Superintendent specially empowered by the Chief Commissioner in that behalf, as the case may be, under section 55, 56, or 57.".

10. In section 71 of the Act and in the marginal heading thereof, the figures "43" shall be omitted.

11. For section 72 of the Act, the following shall be substituted, namely :—

"72. *When police officer may arrest without warrant.*—Any police officer may, without an order from a Magistrate and without a warrant, arrest any person who contravenes any order made under section 56, 57 or 63AA."

12. For section 79 of the Act, the following shall be substituted, namely :—

"79. *Powers of police officers to arrest without warrant when certain offences are committed in their presence.*—Any police officer may, without an order from a Magistrate and without a warrant, arrest any person committing in his presence any offence punishable under section 117 or section 131."

13. For section 80 of the Act, the following shall be substituted, namely :—

"80. *Other powers of arrest.*—Any police officer may arrest without warrant for an offence specified in section 110."

14. In section 117 of the Act, for the words and figures "Sections 99 to 116" the words and figures "sections 110 to 113" shall be substituted and the marginal heading shall be amended accordingly.

15. In section 142 of the Act,—

(i) in clause (a), the words "or any district or districts, or part thereof" shall be omitted;

(ii) in clause (b), the words "or district aforesaid or part thereof" shall be omitted.

16. In section 151 of the Act, for the words and figures "under sections 117, 119, 131, 134, 137, 139, 140 or 144", the words and figures "under section 117 or 131" shall be substituted.

17. In section 157A of the Act, for the words "a Commissioner", and the word "Commissioner", wherever they occur, the words "Chief Commissioner" shall be substituted.

18. In section 159 of the Act, for the words "No Revenue Commissioner, Magistrate or police officer shall be", the words "The Chief Commissioner, Magistrate or police officer shall not be" shall be substituted.

The text of the relevant sections of the said Act, as modified by this notification, is published as an annexure to this notification.

ANNEXURE

2. *Definitions.*—(1A) "Chief Commissioner" means the Chief Commissioner of the Union Territory of Delhi;

*** *** ***

(3) "Competent Authority" means the District Magistrate, Additional District Magistrate, Sub-divisional Magistrate or the District Superintendent specially empowered in that behalf by the Chief Commissioner;

*** *** ***

(6) "District Superintendent" means a District Superintendent of Police appointed for the Union territory of Delhi;

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(11) "Police Officer" means any member of the Police Force appointed or deemed to be appointed for the Union territory of Delhi;

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33(1)(db) licensing, controlling or prohibiting the erection, exhibition, fixation or retention of any sign, device or representation for the purpose of advertisement, which is visible against the sky from some point in any street and is hoisted or held aloft over any land, building or structure at such heights as (regard being had to the traffic in the vicinity, and the likelihood of such sign, device or representation at that height being a distraction or causing obstruction to such traffic) may be specified in the rule or order;

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55. *Dispersal of gangs and bodies of persons.*—Whenever it shall appear to the District Magistrate the Sub-Divisional Magistrate or the District Superintendent specially empowered by the Chief Commissioner in that behalf, that the movement or encampment of any gang or body of persons in the area in his charge is causing or is calculated to cause danger or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body or members thereof, such officer may, by notification addressed to the persons appearing to be the leaders or chief men of such gang or body and published by beat of drum or otherwise as such officer thinks fit, direct the members of such gang or body so to conduct themselves as shall seem necessary in order to prevent violence and alarm, or disperse and each of them to remove himself outside the area within the local limits of his jurisdiction within such time as such officer shall prescribe, and not to enter the area or return to the place from which each of them was directed to remove himself.

56. *Removal of persons about to commit offence.*—Whenever it shall appear to the District Magistrate, or the Sub-Divisional Magistrate specially empowered by the Chief Commissioner in that behalf (a) that the movements or acts of any person are causing or calculated to cause alarm, danger or harm to person or property, or (b) that there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence or an offence punishable under Chapter XII, XVI or XVII of the Indian Penal Code or in the abetment of any such offence, and when in the

opinion of such officer witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property, or (c) that an outbreak of epidemic disease is likely to result from the continued residence of an immigrant, the said officer may, by an order in writing duly served on him or by beat of drum or otherwise as he thinks fit, direct such person or immigrant so to conduct himself as shall seem necessary in order to prevent violence and alarm or the outbreak or spread of such disease or to remove himself outside the area within the local limits of his jurisdiction by such route and within such time as the said officer may prescribe and not to enter or return to the said area from which he was directed to remove himself.

57. *Removal of persons convicted of certain offences.*—If a person has been convicted—

(a) of an offence under Chapter XII, XVI or XVII of the Indian Penal Code (XLV of 1860), or

(b) twice of an offence under section 6 or section 11 of the Bombay Prevention of Begging Act, 1959 (Bombay Act X of 1960) as extended to Delhi, or under the Suppression of Immoral Traffic in Women and Girls Act, 1956 (Central Act 104 of 1956), or

(c) thrice of an offence within a period of three years under the Delhi Gambling Act, 1955 (Delhi Act IX of 1955) or under the Punjab Excise Act, 1914 (Punjab Act I of 1914), as extended to Delhi;

the District Magistrate or the Sub-Divisional Magistrate specially empowered by the Chief Commissioner in this behalf, if he has reason to believe that such person is likely again to engage himself in the commission of an offence similar to that for which he was convicted, may direct such person to remove himself outside the area within the local limits of his jurisdiction by such route and within such time as the said officer may prescribe and not to enter or return to the area from which he was directed to remove himself.

Explanation.—For the purpose of this section "an offence similar to that for which a person was convicted" shall mean—

(i) in the case of a person convicted of an offence mentioned in clause (a), an offence under any of the Chapters of the Indian Penal Code (XLV of 1860) mentioned in that clause, and

(ii) in the case of a person convicted of an offence mentioned in clauses (b) and (c), an offence falling under the provisions of the Acts mentioned respectively in the said clauses.

58. *Period of operation of orders under sections* 55, 56 *and* 57.—A direction made under section 55, 56 or 57 not to enter any particular area shall be for such period as may be specified therein and shall in no case exceed a period of two years from the date on which it was made.

59. *Hearing to be given before order under sections* 55, 56 *or* 57 *is passed.*—(1) Before an order under section 55, 56 or 57 is passed against any person the officer acting under any of the said sections or any officer above the rank of an Inspector authorised by that officer shall inform the person in writing of the general nature of the material allegations against him and give him a reasonable opportunity of tendering an explanation regarding them. If such person makes an application for the examination of any witness produced by him, the authority or officer concerned shall grant such application; and examine such witness, unless for reasons to be recorded in writing, the authority or officer is of opinion that such application is made for the purpose of vexation or delay. Any written statement put in by such person shall be filed with the record of the case. Such person shall be entitled to appear before the officer proceeding under this section by an advocate or attorney for the purpose of tendering his explanation and examining the witnesses produced by him.

(2) The authority or officer proceeding under sub-section (1) may, for the purpose of securing the attendance of any person against whom an order is proposed to be made under section 55, 56 or 57, require such person to appear before him and to pass a security bond with or without sureties for such attendance during the inquiry. If the person fails to pass the security bond as required or fails to appear before the officer or authority during the inquiry, it shall be law-

ful to the officer or authority to proceed with the inquiry and thereupon such order as was proposed to be passed against him may be passed.

60. *Appeal.*—(1) Any person aggrieved by the order made under section 55, 56 or 57 may appeal to the Chief Commissioner within thirty days from the date of such order.

(2) An appeal under this section shall be preferred in duplicate in the form of a memorandum, setting forth concisely the grounds of objection to the order appealed against, and shall be accompanied by that order or a certified copy thereof.

(3) On receipt of such appeal, the Chief Commissioner may, after giving a reasonable opportunity to the appellant to be heard either personally or by a pleader, advocate or attorney and after such further inquiry, if any, as he may deem necessary, confirm, vary or cancel or set aside the order appealed against, and make his order accordingly:

Provided that the order appealed against shall remain in force pending the disposal of the appeal, unless the Chief Commissioner otherwise directs.

(4) In calculating the period of thirty days provided for an appeal under this section, the time taken for granting a certified copy of the order appealed against, shall be excluded.

61. *Finality of order passed by Chief Commissioner in certain cases.*—Any order passed under section 55, 56 or 57 or by the Chief Commissioner under section 60 shall not be called in question in any Court except on the ground that the authority making the order or any officer authorised by him had not followed the procedure laid down in sub-section (1) of section 59 or that there was no material before the authority concerned upon which it would have based its order or on the ground that the said authority was not of opinion that witnesses were unwilling to come forward to give evidence in public against the person in respect of whom an order was made under section 56.

62. *Procedure on failure of person to leave the area and his entry therein after removal.*—(1) If a person to whom a direction has been issued under section 55, 56 or 57 to remove himself from an area—

(i) fails to remove himself as directed, or

(ii) having so removed himself, except with the permission in writing of the authority making the order as provided in sub-section (2), enters the area within the period specified in the order, the authority concerned may cause him to be arrested and removed in police custody to such place outside the area as the said authority may in each case prescribe.

(2) The authority making an order under section 55, 56 or 57 may in writing permit any person in respect of whom such order has been made to enter or return to the area from which he was directed to remove himself, for such temporary period and subject to such conditions as may be specified in such permission and may require him to enter into a bond with or without surety for the due observance of the conditions imposed. The authority aforesaid may at any time revoke any such permission. Any person who with such permission enters or returns to such area shall observe the conditions imposed and at the expiry of the temporary period for which he was permitted to enter or return, or on the earlier revocation of such permission, shall remove himself outside such area and shall not enter therein or return thereto within the unexpired residue of the period specified in the order under section 55, 56 or 57, without a fresh permission. If such person fails to observe any of the conditions imposed, or to remove himself accordingly or having so removed himself enters or returns to the area without fresh permission the authority concerned may cause him to be arrested and removed in police custody to such place outside the area as that authority may in each case prescribe.

63. *Temporary permission to enter or return to the area from which a person was directed to remove himself.*—(1) The Chief Commissioner or any officer specially empowered by the Chief Commissioner in that behalf may, by order, permit any person in respect of whom an order has been made under sections 55, 56 or 57, to enter or return for a temporary period to the area, from which he was directed to remove himself, subject to such conditions as he may by general or special order specify and which such person accepts and may, at any time, [illegible] tion.

(2) In permitting a person under sub-section (1) to enter or return to the area from which he was directed to remove himself, the Chief Commissioner or such officer may require him to enter into bond with or without surety for the observance of the conditions imposed.

(3) Any person permitted under sub-section (1) to enter or return to the area from which he was directed to remove himself shall surrender himself at the time and place and to the authority specified in the order or in the order revoking the said order, as the case may be.

63AA. *Powers of Government, Chief Commissioner and officers specially empowered.*—(1) The Chief Commissioner or any officer specially empowered by the Chief Commissioner in that behalf, may, in like circumstances and in like manner, exercise the powers exercisable by the District Magistrate, Sub-Divisional Magistrate or District Superintendent specially empowered by the Chief Commissioner in that behalf, as the case may be, under section 55, 56, or 57.

(2) The provisions of sections 58, 59, 60, 61, 62 and 63 shall *mutatis mutandis* apply to the exercise of any powers under this section, as they apply to the exercise of any powers under sections 55, 56 or 57.

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71. *Duty of police to see orders issued under sections* 55, 56, 57 *or* 63*AA are carried out.*—It shall be the duty of the Police to see that every regulation and direction made by any authority under sections 55, 56, 57 or 63AA is duly obeyed, to warn persons who from ignorance fail to obey the same and to arrest any person who wilfully disobeys the same.

72. *When Police Officer may arrest without warrant.*—Any Police officer may, without any order from a Magistrate and without a warrant, arrest any person who contravenes any order made under sections 56, 57 or 63AA.

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79. *Powers of Police officers to arrest without warrant when certain offences are committed in their presence.*—Any Police officer may, without an order from a Magistrate and without a warrant, arrest any person committing in his presence any offence punishable under section 117, or section 131.

80. *Other powers of arrest.*—Any Police officer may arrest without a warrant for an offence specified in section 110.

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110. *Behaving indecently in public.*—No person shall wilfully and indecently expose his person in any street or public place or within sight of, and in such manner as to be seen from, any street or public place, whether from within any house or building or not, or use indecent language or behave indecently or riotously, or in a disorderly manner in a street or place of public resort or in any office, station or station house.

111. *Obstructing or annoying passengers in the street.*—No person shall wilfully push, press, hustle or obstruct any passenger in a street or public place or by violent movements, menacing gestures, wanton personal annoyance, screaming, shouting wilfully frightening horses or cattle or otherwise disturb the public peace or order.

112. *Misbehaviour with intent to provoke breach of the peace.*—No person shall use in any street or public place any threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned.

113. *Prohibition against flying kite.*—No person shall fly a kite so as to cause danger, injury or alarm to persons, horses or property.

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117. *Penalties for offenders under sections* 110 *to* 113.—Any person who contravenes any of the provisions of sections 110 to 113 (both inclusive) shall on conviction, be punished with fine which may extend to hundred rupees.

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141. *Penalty for contravention of directions under sections* 55, 56, 57 *or* 63*AA.*—Whoever opposes or disobeys or fails to conform to any direction issued under sections 55, 56, 57 or 63AA or abets opposition to or disobedience of any such direction shall, on conviction, be punished with imprisonment for a term which may extend to one year but shall not, except for reasons to be recorded in writing, be less than four months, and shall also be liable to fine.

142. *Penalty for entering without permission area from which a person is directed to remove himself or overstaying when permitted to return temporarily.*—Without prejudice to the power to arrest and remove a person in the circumstances and in the manner provided in section 62, any person who—

(a) in contravention of a direction issued to him under sections 55, 56, 57 or 63AA enters or returns without permission to the area from which he was directed to remove himself;

(b) enters or returns to any such area with permission under section (2) of section 62, but fails, contrary to the provisions thereof to remove himself outside such area at the expiry of the temporary period for which he was permitted to enter or return or on the earlier revocation of such permission, or having removed himself at the expiry of such temporary period or on revocation of the permission, enters or returns thereafter without fresh permission,

shall, on conviction, be punished with imprisonment for a term which may extend to two years, but shall not, except for reasons to be recorded in writing, be less than six months, and shall be also liable o fine.

143. *Penalty for failure to surrender in accordance with sub-section (3) of section 63.*—Whoever fails without sufficient cause to surrender in accordance with sub-section (3) of section 63 shall, on convicion, be punished with imprisonment which may extend to two years and shall also be liable to fine.

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151. *Prosecution for certain offences against the Act to be in the discretion of the Police.*—It will not except in obedience to a rule or order made by the Chief Commissioner or by the competent authority, be incumbent on the Police to prosecute for an offence punishable under section 117 or 131 when such offence has not occasioned serious mischief and has been promptly desisted from on warning given.

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155. *Method of proving orders and notifications.*—Any order or notification published or issued by the Chief Commissioner or by a Magistrate or officer under any provision of this Act, and the due publication or issue thereof, may be proved by the production of a copy thereof in the official gazette, or of a copy thereof signed by such Magistrate, or officer, and by him certified to be a true copy of an original published or issued according to the provisions of the section of this Act applicable thereto.

156. *Rules and orders not invalidated by defect of form or irregularity in procedure.*—No rule, order, direction, adjudication, inquiry or notification made or published, and no act done under this Act, or in substantial conformity to the same shall be deemed illegal, void, invalid or insufficient by reason of any defect of form or any irregularity of procedure.

157. *Presumption in prosecutions for contravention of directions issued under sections 55, 56, 57 or 63AA.*—Notwithstanding anything contained in any law for the time being in force in a prosecution for an offence for the contravention of a direction issued under sections 55, 56, 57 or 63AA on the production of an authentic copy of the order, it shall, until the contrary is proved and the burden of proving which shall lie on the accused, be presumed—

(a) that the order was made by the authority competent under this Act to make it;

(b) that the authority making the order was satisfied that the grounds on or the purpose for which it was made existed, and that it was necessary to make the same; and

(c) that the order was otherwise valid and in conformity with the provisions of this Act.

157A. *Officers holding charge of, or succeeding to, vacancies competent to exercise powers.*—Whenever in consequence of the office of Chief Commissioner, Magistrate or Police officer becoming vacant any officer holds charge of the post of such Chief Commissioner, Magistrate or Police Officer or succeeds, either temporarily or permanently, to his office, such officer shall be competent to exercise all the powers and perform all the duties respectively conferred and imposed by this Act on such Chief Commissioner, Magistrate or Police officer, as the case may be.

158. *Forfeiture of bond entered into by person permitted to enter or return to the area from which he was to remove himself.*—If any person permitted under sub-section (1) of section 63 fails to observe any condition imposed under the said sub-section or in the bond entered into by him under sub-section (2) of the said section his bond shall be forfeited and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the Court why such penalty should not be paid.

159. *No Magistrate or Police Officer to be liable to penalty or damage for act done in good faith in pursuance of duty.*—The Chief Commissioner, Magistrate or Police officer shall not be liable to any penalty or to payment of damages on account of an act done in good faith, in pursuance or intended pursuance of any duty imposed or any authority conferred on him by any provision of this Act or any other law for the time being in force or any rule order or direction made or given therein.

160. *No public servant liable as aforesaid for giving effect in good faith to any rule, order or direction issued with apparent authority.*—No public servant or person duly appointed or authorised shall be liable to any penalty or to payment of any damages for giving effect in good faith to any such order or direction issued with apparent authority by the Chief Commissioner or by a person empowered in that behalf under this Act or any rule, order or direction made or given thereunder.

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163. *Public notices how to be given.*—Any public notice required to be given under any of the provisions of this Act shall be in writing under the signature of the competent authority and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drums, or by advertising, the same in such local newspapers,—English or regional language or Hindi,—as the said authority may deem fit, or by any two more of these means and by any other means it may think suitable.

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[No. F. 3/12/64-UTL-79.]

HARI SHARMA, Secy. (UT).

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